

Message Text

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ACTION L-03

INFO OCT-01 IO-10 ISO-00 OIC-02 CIAE-00 DODE-00 PM-04 H-02

INR-07 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15

USIA-06 AF-06 ARA-06 EA-07 EUR-12 NEA-10 EB-07 COME-00

OMB-01 /108 W

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R 172313Z OCT 75

FM USMISSION USUN NY

TO SECSTATE WASHDC 3015

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E.O. 11652: N/A

TAGS: UN, PFOR, UNCITRAL

SUBJ: UNGA LEGAL COMMITTEE: REPORT OF UNCITRAL

SUMMARY: SMALL GROUP OF INTERESTED DELS MET FRIDAY, 17 OCT., UNDER NJENGA CHAIRMANSHIP TO DISCUSS CURRENT TEXT OF YUGOSLAV PROPOSED ADDITION TO LEGAL COMITE RES ON UNCITRAL. MEETING WAS INCONCLUSIVE, THOUGH US AND UK EXPRESSED STRONG OPPOSITION. GROUP WILL MEET AGAIN MONDAY, 20 OCTOBER. END SUMMARY.

1. FOLLOWING IS LATEST VERSION OF TEXT WHICH YUGOSLAVS HAVE PROPOSED BE INCLUDED AS AN OPERATIVE PARAGRAPH IN LEGAL COMITE RESOLUTION ON REPORT OF UNCITRAL.

"CALLS UPON UNCITRAL TO TAKE ACCOUNT OF THE RELEVANT PROVISIONS OF THE GA RES 3201 (S-VI) AND 3202 (S-VI) ON THE DECLARATION AND THE PROGRAMME OF ACTION OF THE ESTABLISHMENT OF A NIEO AS WELL AS GA RES 3362 (S-VII) ON DEVELOPMENT AND INTERNATIONAL ECONOMIC COOPERATION, BEARING IN MIND THE NEED FOR UN ORGANS TO PARTICIPATE IN THE IMPLEMENTATION OF THE ABOVE MENTIONED RES".

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2. AT URGING LEGAL COMITE RAPPORTEUR, BRACKLO (FRG), LEGAL

COMITE CHAIRMAN NJENGA (KENYA) GATHERED SMALL GROUP INTERESTED DELS, AM FRIDAY, 17 OCTOBER, TO DISCUSS TEXT REPORTED PARA 1. IN ATTENDANCE WERE PARAGUAY, MEXICO, US, ITALY, UK (EVANS), ALGERIA, YUGOSLAVIA, GUYANA, NJENGA AND BRACKLO. NJENGA BEGAN BY ASKING WHETHER YUGOSLAV TEXT POSED ANY DIFFICULTIES.

3. US DEL ADVISED GROUP THAT US WAS OPPOSED TO INCLUSION OF TEXT AND THAT TEXT REFERRED TO DOCUMENTS PARTS OF WHICH WERE FUNDAMENTALLY UNACCEPTABLE TO US. US DEL ALSO NOTED THAT SIXTH SPECIAL SESSION DOCUMENTS WERE OF ESSENTIALLY POLITICAL RATHER THAN LEGAL CONTENT, EVEN THOUGH DOCUMENTS DID DEAL WITH LEGAL QUESTIONS RELEVANT TO INTERNATIONAL TRADE; AND, OFTEN WHERE LEGAL MATTERS WERE DEALT WITH THEY WERE PRESENTED IN LANGUAGE EMPHASIZING THE POLITICAL NATURE OF THEIR TREATMENT. THIS, US DEL STATED, WAS NOT THE KIND OF MATTER WE THOUGH LEGAL COMITE SHOULD URGE UNCITRAL TO CONSIDER. IT WOULD INVOLVE UNDESIRABLE POLITICIZATION OF UNCITRAL WORK. NOR DID UNCITRAL WORK IN A VACUUM; AS ITS LATEST REPORT SHOWED, UNCITRAL WAS CONSCIOUS OF DEVELOPMENTS IN OTHER UN FORA. US DEL STATED THAT IF TEXT WERE INCLUDED WE WOULD HAVE TO WITHDRAW OUR COSPONSORSHIP, PREVIOUSLY INDICATED TO BRACKLO, OF INFORMAL DRAFT RES ON UNCITRAL AND MIGHT NOT BE ABLE TO SUPPORT UNCITRAL RESOLUTION. SINCE LEGAL COMITE HAS CONTINUOUSLY SHOWN ITS SOLID SUPPORT IN THE PAST FOR UNCITRAL'S GOOD WORK BY MEANS OF CONSENSUS RESOLUTIONS ON UNCITRAL, WE WOULD GREATLY REGRET DEPARTURE FROM THIS PRACTICE.

4. UK DEL (SIR VINCENT EVANS) ASSOCIATED HIMSELF WITH US STATEMENTS, ADDING THAT SUCH A PARA WOULD BE UNACCEPTABLE TO THE UK AND THAT LEGAL COMITE SHOULD ADOPT A NON-CONTROVERSIAL CONSENSUS RES ON UNCITRAL, IN KEEPING WITH PAST PRACTICE.

5. MEXICAN DEL PROPOSED THAT IN THE EVENT RPT IN THE EVENT SUCH A PARA IS FORMALLY PUT FORWARD, IT SHOULD ALSO INCLUDE REFERENCE TO THE CHARTER OF ECONOMIC RIGHTS AND DUTIES OF STATES (CERDS)

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6. ITALIAN DEL PROPOSED, AS A COMPROMISE, WE MAKE NO REFERENCE TO SIXTH SPECIAL SESSION OR CERDS, AND SIMPLY INCLUDE A PREAMBULAR REFERENCE TO DECISION OF SEVENTH SPECIAL SESSION.

7. PARAGUAY STATED HIS VIEW THAT IT WAS OUR RESPONSIBILITY TO KEEP BOTH LEGAL COMITE AND UNCITRAL AS NON-POLITICAL AS POSSIBLE.

8. BRACKLO REPORTED ON HIS CONSULTATIONS AS UNOFFICIAL SALESMAN OF UNCITRAL DRAFT RES. HE STATED THAT MANY DELS HAVE INDICATED TO HIM THEY WOULD RESCIND COSPONSORSHIP OF YUGOSLAV TEXT INCLUDED. HE FOUND SPECIAL RESISTANCE TO REFERENCES TO DECISIONS OF SIXTH SPECIAL SESSION, AND ASSESSED SAME REACTION WOULD OCCUR TO REFERENCES TO CERDS. HE CONSIDERED THERE WOULD BE LESS DIFFICULTY WITH A REFERENCE TO SEVENTH SPECIAL SESSION, AND SUGGESTED WE MIGHT WISH TO DEVELOP LANGUAGE ALONG THOSE LINES.

9. IN RESPONSE TO NJENGA REQUEST FOR THEIR VIEWS ON BRACKLO SUGGESTION, GUYANA (A SUPPORTER OF YUGOSLAV TEXT) INDICATED IT WAS PREPARED EXPLORE REFERENCE SOLELY TO SEVENTH SPECIAL SESSION; WHILE YUGOSLAVIA SAID THIS WAS NOT ACCEPTABLE IN THAT IT WOULD APPEAR TO MAKE SIXTH SPECIAL SESSION SEEM LESS IMPORTANT THAN THE SEVENTH.

10. MEETING ENDED WITH NJENGA REQUESTING WE THINK MATTER OVER UNTIL WE MEET AGAIN SOMETIME MONDAY, 20 OCTOBER.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INTERNATIONAL LAW, COMMITTEE MEETINGS, RESOLUTIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 17 OCT 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: izenbei0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975USUNN05124
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750362-0203
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751045/aaaabnyk.tel
Line Count: 137
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: izenbei0
Review Comment: n/a
Review Content Flags:
Review Date: 03 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 JUL 2003 by ElyME>; APPROVED <17 NOV 2003 by izenbei0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: UNGA LEGAL COMMITTEE: REPORT OF UNCITRAL SUMMARY: SMALL GROUP OF INTERESTED DELS MET FRIDAY
TAGS: PFOR, UN, UNCITRAL
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006